

Atty. Dkt. No. 085449-0152
Appln. No. 10/511,037

REMARKS

This paper responds to the restriction and species election requirement set forth in the Office Action mailed on December 11, 2006.

I. Status of the Claims

Claims 23-44 are pending. No claims are requested to be added, deleted, or amended.

II. Restriction Requirement

The Examiner restricted the claims of the application into four (4) groups, as detailed at page 2 of the Office Action. In response, Applicants elect Group I, claims 23-34 and 44, drawn in part to a Smac protein/carrier entity, a drug containing an entity as specified in claim 31, optionally in combination with at least one active apoptosis-inducing or proliferation-inhibiting compound and a pharmaceutical carrier, wherein the active compound is a cytostatic compound, a medicament for the treatment of cancer. Applicants make this election with traverse. The election is traversed on the grounds that the search and examination of the four different groups of claims is not unduly burdensome.

III. Species Election

In addition, the Examiner required an election of species for *each* of the following.

A. Species Election #1

Applicants are required to elect a single *carrier*, from the list given at page 4 of the Office Action. In response, Applicants elect "TAT".

B. Species Election #2

Applicants are required to elect a single *cytostatic compound*, from the list given at pages 4-6 of the Office Action. In response, Applicants elect "doxorubicin".

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C. Species Election #3

Applicants are required to elect a single *cancer* from the list given at pages 6-7 of the Office Action. In response, Applicants elect "neuroblastoma."

Applicants make these species elections with traverse. Applicants traverse on the grounds that the search and examination of all of the species does not impose an undue burden upon the examiner. Moreover, the M.P.E.P. provides that a reasonable number of species can be searched in one application. Applicants presume that the species election is made to assist the Examiner in searching the invention, and that the Examiner will follow the procedures delineated in MPEP 809.02(c).

IV. Conclusion

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 CFR §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,

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By Michele M. Simkin

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5538
Facsimile: (202) 672-5399

Michele M. Simkin
Attorney for Applicant
Registration No. 34,717